

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Part 73 of the) File No. RM-9246
Rules and Regulations)
to Establish Event)
Broadcast Stations)

To: The Commission

STATEMENT OF
NATIONAL PUBLIC RADIO, INC.

Pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, National Public Radio, Inc. ("NPR") hereby submits its Statement on the above-referenced petition for rulemaking to establish an event broadcasting service. See Public Notice, Report No. 2264, File No. RM-9246, March 18, 1998 [hereinafter "Petition"].

NPR is a non-profit membership corporation that produces and distributes noncommercial educational radio programs through more than 590 public radio stations nationwide. Among its award winning programs are *All Things Considered*®, *Morning Edition*®, *Talk Of The Nation*®, and *Performance Today*®. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its member stations.

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1. The Petition fails to propose the rules and rule amendments that would appear to be required to establish event broadcast stations. The Commission's rules require that a petition for rulemaking "set forth the text or substance of the proposed rule, amendment, or rule to be repealed." 47 C.F.R. § 1.401(c). More than a matter of technical noncompliance with the Commission's pleading rules, the failure in this case to set forth the proposed rules and rule changes, or to define their substance with any degree of precision, underscores the inchoate nature of the proposal. For instance, rather than proposing particular frequency(ies) to be used by the event broadcast stations, the Petition suggests, alternatively, that "the FCC issue broadcast band licenses for nationwide operation," Petition at 6. and that "the Commission may want to consider authorizing use of Channel 200 (87.9 MHz)." Petition at 8. Petitioner's discussion of permissible transmission power levels is no better conceived: "the Commission may want to consider a graduated power level system, based on the premise of using the least practicable amount of power to do the job." *Id.* at 9.

General observations such as these mask the significant regulatory and policy issues associated with the authorization of a low power, event broadcasting service. Unless the Commission is inclined to propose the basic regulatory requirements in the first instance, it is difficult to justify initiating a rulemaking proceeding.

2. Under any regulatory regime governing event broadcasting, there would likely be substantial interference to full service broadcast stations and significant administrative costs associated with enforcing even the most basic regulatory requirements. Putting aside consideration of how an event broadcasting service might be structured, the low power broadcast "stations" are likely to increase the level of interference to full service stations. Radio reception is an inherently probabilistic phenomenon. At line-of-sight FM frequencies, signal strengths

commonly vary by factors of 100 to 1000 within a few feet of the same receiving location. This highly volatile signal variation is due to everyday terrain reflection and obstruction characteristics at individual locations. Only the lack of competing signals keeps the receivers "locked" to the protected channel of the tuned-to broadcast station aided by the "capture effect" of the FM receiver's limiter. The presence of low levels of adjacent channel interference, even operations at the most modest power levels, could disrupt reception for listeners within a wide zone.

Interference in this case is particularly likely because the Petitioner proposes to avoid the normal engineering review that occurs when a station proposes to establish or change its basic technical operations. See Petition at 8 ("To avoid interference, frequency coordination is required. Petitioner volunteers to serve as the Frequency Coordinating authority for the United States.") Moreover, the Petitioner acknowledges that the circumstances associated with low power broadcast transmissions from particular "events" will be impossible to predict in advance.

Petitioner recognizes that the Commission cannot anticipate every conceivable temporary event or use. Some users might want to broadcast for a couple hours per day for a fixed period of time. Others might want to broadcast 24-hours a day for that same fixed period of time. Still others might want to broadcast at a distinct event, but whose termination date is not fixed. Given the wide variety of potential "events", this could present a definitional challenge.

Petition at 6-7. Thus, even assuming an appropriate frequency allocation and power level, the malleability of the critical term "event" poses a significant challenge to the Commission's ability to prevent harmful interference to full service broadcast stations.

Perhaps of equal significance would be the cost associated with enforcing the Commission's content regulations. See generally 47 C.F.R. Subpart H (Rules Applicable to All Broadcast Stations). Whether it involves the broadcasting of contest or lottery information or

compliance with the political broadcasting rules, the Commission should not underestimate the administrative time and expense associated with enforcing those rules. On the other hand, unless the Commission is prepared to eliminate these requirements for full service stations, there appears to be no justification for refraining from imposing these requirements on low power stations, such as the proposed event broadcasting stations.

In part because of basic considerations such as these, the Commission has long sought to maximize the availability of radio broadcast service to the public through full-service stations. In so doing, the Commission has recognized that full-service radio broadcast stations make more efficient use of the radio frequency spectrum than do low-power stations. See Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations, 73 R.R.2d 722, 729 (1993); see also Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations, 69 F.C.C.2d 240, 248-49 (1978) (requiring Class D stations to relocate from NCE reserved channels). By failing to explain how the proposed service would be established and administered without interference to full service stations and in a manner that makes efficient use of the radio frequency spectrum and the Commission's resources, the Petition does not provide any basis for reversing this long-standing policy.

3. The Petitioner has failed to articulate the public interest benefits associated with the proposed service. According to the Petition, the valuable public interest function to be served by the proposed service is the offering of an inexpensive, readily-available communications system to enhance well attended events, such as "major tennis and golf tournaments, professional sports games, the World Series, the Super Bowl, the Stanley Cup hockey games, the Summer and Winter Olympics, the annual Folk Life Festival, communications industry conventions, and political conventions." Since most of the aforementioned events are covered by full service

television and/or radio stations, those individuals who wish to receive information regarding the event already possess the broadcast means to that information. With regard to large outdoor events -- whether featuring a wide diversity of exhibitions, such as the Folk Life Festival, or a single, featured performance -- Petitioner has not offered any evidence to suggest how the presence of low power broadcast facilities would enhance the experience for an appreciable portion of the public. See 47 C.F.R. § 1.401 ("The petition shall set forth . . . all facts, views, arguments and data deemed to support the action requested.")

* * *

Because the cost of establishing and administering a truly secondary event broadcasting service are likely to be substantial, and the public interest benefits undefined, initiating a rulemaking proceeding at this time is unwarranted.

Respectfully Submitted,



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April 27, 1998

CERTIFICATE OF SERVICE

I, Gregory A. Lewis, hereby certify that a copy of the foregoing Statement of National Public Radio, Inc. was sent this 27th day of April, 1998, by first class mail, postage prepaid to the following:

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